

The opinion in support of the decision being entered today is not binding precedent of the Board

Filed by: Trial Section Merits Panel
Mail Stop INTERFERENCE
Board of Patent Appeals and Interferences, USPTO
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Paper No. 41

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

STEPHEN F. **BADYLAK**, ANDREW W. **BUIRGE**,
PAUL J. **BUSCEMI** and PAUL H. **BURMEISTER**
Junior Party
(Application 09/116,734),

FAXED

DEC 14 2004

v.

ANDREW W. **BUIRGE**, PAUL J. **BUSCEMI**
and PAUL H. **BURMEISTER**,
Senior Party
(Patent 5,693,085).

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Patent Interference No. 105,216

Before McKELVEY, Senior Administrative Patent Judge, LEE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Judgment – Bd. Rule 127

This interference was declared on April 29, 2004. The sole issue is inventorship. The parties agreed (see Paper 34) to have the Board enter adverse judgment against the junior party if a joint motion to correct the inventorship of the senior party's involved patent, by adding

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F. Badylak as a co-inventor, is granted. The joint motion was granted in Paper 39. Accordingly, it is now appropriate to enter judgment against the junior party.

It is

ORDERED that judgment as to the subject matter of each of Counts 1-37 is herein entered against the junior party STEPHEN F. BADYLAK, ANDREW W. BUIRGE, PAUL J. BUSCEMI, and PAUL H. BURMEISTER, and thus the junior party STEPHEN F. BADYLAK, ANDREW W. BUIRGE, PAUL J. BUSCEMI, and PAUL H. BURMEISTER is not entitled to claims 1-37 of Application 09/116,734;

FURTHER ORDERED that a copy of the parties' joint motion to correct named inventorship of the senior party's involved patent (Paper 38 in this interference), a copy of the evidence in support of that joint motion, and a copy of the decision (Paper 39) on that joint motion, all be placed in the official file of Patent No. 5,693,085;

FURTHER ORDERED that within seven (7) days of the date of this judgment, the senior party file a proposed certificate of correction for its involved patent (include a copy for the interference file), to reflect the correction in named inventorship as was approved by the Board in Paper 39, together with any required fee, for forwarding by the Board to an appropriate office within the USPTO;

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205;

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.

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By Facsimile:

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